

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
600 CONGRESS AVENUE, SUITE 2400  
AUSTIN, TEXAS 78701-2978  
WWW.FULBRIGHT.COM

STEVEN L. HIGHLANDER  
PARTNER  
SHIGHLANDER@FULBRIGHT.COM

DIRECT DIAL: (512) 536-3184  
TELEPHONE: (512) 474-5201  
FACSIMILE: (512) 536-4598

July 6, 2010

Commissioner for Patents  
Attention: Certificates of Correction Branch  
P.O. Box 1450  
Alexandria, VA 22313-1450

## CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office via EFS-Web on the date below:

July 6, 2010  
Date

Steven L. Highlander

RE: *Request for Certificate of Correction*  
*Patent No. 7,303,906 Dated: December 4, 2007*  
*Application No. 10/655,914 Confirmation No.: 8615*  
*Entitled: "COMPETENT BACTERIA" – Frederick R. BLATTNER et al.*  
*Our Ref.: WARF:018US*

Commissioner:

Attached is form PTO-1050. An error of a minor nature is thereon corrected. The error is due to the Patent Office's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). A Certificate of Correction is requested under 35 U.S.C. § 254.

In view of *Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), Patentees request correction of the patent term adjustment under 35 U.S.C. 154(b) from 0 days to 112 days. Pursuant to 37 C.F.R. § 1.703(b), Patentees are entitled to a period of patent term adjustment due to failure of the Office to issue a patent within three years after the filing date, *i.e.* September 5, 2006. Since the Patent Office failed to issue the above-identified patent until December 4, 2007, Patentees are entitled to a period of patent term adjustment beginning on the day after the date that is 3 years after the filing date of the application, *i.e.* September 6, 2006, and ending on the date a patent is issued, *i.e.*, December 4, 2007. Accordingly, the period of patent term adjustment due to this delay is 455 days.


A partial period of this delay (331 days) was included in the patent term adjustment determination. If the complete period of delay is counted, total Patent Office delay should be calculated as 579 days; total Applicant delay should be calculated as 467 days; and total patent term adjustment should be calculated as 112 days.

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It is believed that no fees under 37 C.F.R. §§ 1.16 to 1.21 are occasioned by the filing of this paper; however, should the Commissioner determine otherwise, the Commissioner is hereby authorized to deduct said fees from Fulbright & Jaworski Deposit Account No. 50-1212/WARF:018US.

Very truly yours,



Steven L. Highlander

SLH/jst  
Attachment

# UNITED STATES PATENT AND TRADEMARK OFFICE **CERTIFICATE OF CORRECTION**

PATENT NO. : 7,303,906  
 DATED : December 4, 2007  
 INVENTOR(S) : Frederick R. BLATTNER et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

Delete the phrase "by 0 days" and insert --by 112 days--.

MAILING ADDRESS OF SENDER:  
 Steven L. Highlander  
 FULBRIGHT & JAWORSKI L.L.P.  
 600 Congress Ave., Suite 2400  
 Austin, Texas 78701

PATENT NO. 7,303,906  
 No. of add'l. copies  
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